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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,465	11/21/2001	James J. Coogan	2001P21981US	3192

7590

04/27/2004

Siemens Corporation  
Intellectual Property Department  
186 Wood Avenue South  
Iselin, NJ 08830

EXAMINER
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KOSOWSKI, ALEXANDER J

ART UNIT	PAPER NUMBER
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2125

12

DATE MAILED: 04/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/990,465

Applicant(s)

COOGAN, JAMES J.

Examiner

Alexander J Kosowski

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-15 and 25-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,3-15 and 25-30 is/are rejected.  
7) ☒ Claim(s) 1,9,25 and 27 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 21 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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### DETAILED ACTION

1) Claims 1, 3-15 and 25-30 are presented for examination in light of the appeal brief filed 2/23/04. The following is a new non-final rejection.

#### *Claim Objections*

2) Claims 1, 9, 25 and 27 are objected to.

Referring to claim 1, line 11, the phrase "operating modes base" should read --operating modes based--.

Referring to claim 9, the phrase "is connected to second a" should read --is connected to a second--.

Referring to claim 25, the phrase "said device drive" should read --said device driver--.

Referring to claim 27, the phrase "operating modes base" should read --operating modes based--.

Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

3) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4) Claims 1, 3-15 and 27-30 are rejected under 35 U.S.C. 102(e) as being unpatentable by Bernaden, III et al (U.S. pat 6,219,590).

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Referring to claim 1, Bernaden discloses a network device controller (col. 3 lines 30-50) comprising a device driver for selectively controlling an end device in a control network (col. 3 line 64 through col. 4 line 22) comprising a plurality of input selectors for selecting a plurality of first output signals from a plurality of first input signals (col. 5 lines 54-65), at least one intermediate selector for selecting at least one second output signal from said first output signals (col. 6 lines 27-33 and lines 43-52, whereby, for example, a heating lockout may be selected which would result in altering the output signal), and an output selector for selecting an operating mode of the end device from a plurality of predefined operating modes based on said second output signal (col. 5 lines 3-13, whereby, for example, a damper position would or would not be adjusted).

Referring to claim 3, Bernaden discloses that said output of each of said input selectors are connected to said plurality of inputs of said at least one intermediate selector, and said output of said at least one intermediate selector is connected to said output selector for selecting said operating mode (col. 5 lines 3-13 and 54-65 and col. 6 lines 27-33).

Referring to claim 4, Bernaden discloses said output of said at least one intermediate selector is input to a switch and an output of said switch is connected to said output selector for selecting the operating mode, when there are more than one said at least one intermediate selector (col. 6 lines 27-33 and lines 43-52, whereby multiple "command mode" states are available to force the device into a specific mode).

Referring to claims 5-8, Bernaden discloses that said plurality of predefined operating modes includes a first operating mode in which the end device is operated at any point from a first mode to a second mode, is operated at said first mode or said second mode, is operated at

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said first mode, or is operated at said second mode (col. 5 lines 54-65, whereby “heating” can represent a first mode, “cooling” can represent a second mode, and the controller can vary which mode may be operated until it is in a “satisfied” mode).

Referring to claim 9, Bernaden discloses that said plurality of input selectors are connected to a first common input select signal for selecting said first output signals, and said at least one intermediate selector is connected to a second common input select signal for selecting said second output signal (col. 5 lines 54-65 and col. 6 lines 43-52, whereby the intermediate selectors may modify the output signals to the controlled device).

Referring to claim 10, Bernaden discloses that each of said plurality of first input signals corresponds to one of said predefined operating modes (col. 5 lines 54-65).

Referring to claim 11, Bernaden discloses a method of selectively controlling an end device in a control network, said method comprising the steps of selecting a plurality of first output signals from a plurality of first input signals using a device driver provided in a controller (col. 5 lines 54-65), selecting a second output signal from said plurality of first output signals using said device driver (col. 6 lines 27-33 and lines 43-52, whereby, for example, a heating lockout may be selected which would result in altering the output signal), and selecting an operating mode of the end device from a plurality of predefined operating modes based on said second output signal using said device driver (col. 5 lines 3-13, whereby, for example, a damper position would or would not be adjusted).

Referring to claims 12-15, Bernaden discloses that said plurality of predefined operating modes include a first operating mode in which the end device is operated at any point from a first mode to a second mode, is operated at said first mode or said second mode, is operated at said

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first mode, or is operated at said second mode (col. 5 lines 54-65, whereby “heating” can represent a first mode, “cooling” can represent a second mode, and the controller can vary which mode may be operated until it is in a “satisfied” mode).

Referring to claim 27, Bernaden teaches a network device controller for selectively controlling a plurality of devices in a control network, said controller comprising a plurality of device drivers for controlling a plurality of devices in said control network (col. 3 lines 30-50), wherein each said device driver comprises one or more selectors for selecting a plurality of first output signals from a plurality of first input signals (col. 5 lines 54-65), one or more selectors for selecting at least one second output signal from said first output signals (col. 6 lines 27-33 and lines 43-52, whereby, for example, a heating lockout may be selected which would result in altering the output signal), and one or more selectors for selecting an operating mode of an end device from a plurality of predefined operating modes based on said second output signal (col. 5 lines 3-13, whereby, for example, a damper position would or would not be adjusted).

Referring to claims 28-30, see rejection of claims 5-7 above, respectively.

***Claim Rejections - 35 USC § 103***

5) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6) Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernaden, further in view of Eckel (U.S. Pat. 6,388,399).

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Referring to claim 25, Bernaden teaches the device driver above. However, Bernaden does not explicitly teach that said device driver is comprised of separate software modules corresponding to different devices.

Eckel teaches that software may be used for each device controlled by a controller (col. 8 lines 45-47).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to utilize software modules corresponding to different devices in the invention taught by Bernaden since this would allow building wide tasks to be performed from a single location through embedded software (Eckel, col. 9 lines 46-48).

Referring to claim 26, Bernaden teaches the device driver above. However, Bernaden does not explicitly teach that said device driver is incorporated in a LON control network.

Eckel teaches the use of a network device controller utilizing device drivers which may be incorporated into a LON control network (col. 4 lines 54-56).

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to utilize the device driver taught by Bernaden in a LON control network since the LonWorks protocol is one of several well known and common control network protocols (Eckel, col. 4 lines 54-56).

### ***Response to Arguments***

7) All arguments are rendered moot in view of the new rejection above.

### ***Conclusion***

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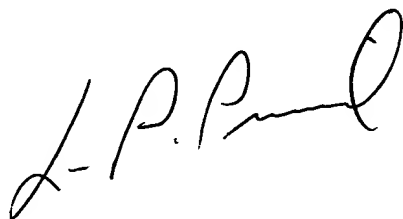
8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander J Kosowski whose telephone number is 703-305-3958.

The examiner can normally be reached on Monday through Friday, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 703-308-0538. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. In addition, the examiner's RightFAX number is 703-746-8370.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Alexander J. Kosowski  
Patent Examiner  
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A handwritten signature in black ink, appearing to read "L. P. Picard". The signature is fluid and cursive, with the first letters of each name being capitalized and prominent.

LEO PICARD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100